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20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 VERNON UNSWORTH,

23 Plaintiff,

24 vs.

25 ELON MUSK,

26 Defendant.

Case No. 2:18-cv-08048

Judge: Hon. Stephen V. Wilson

**DEFENDANT ELON MUSK'S
ANSWER TO PLAINTIFF'S
COMPLAINT**

THE NATURE OF PLAINTIFF'S CLAIM

1
2 1. This lawsuit presents the sad case of the previously unknown Vernon
3 Unsworth, a retired British businessman, now living in Thailand, who has traveled to
4 California (or his lawyer has) to sue Elon Musk based on how Mr. Musk responded
5 to a verbal spat that Mr. Unsworth inexplicably initiated.

6 2. The matter arose in July 2018, in the wake of the successful rescue of a
7 dozen Thai students and their soccer coach after they entered the Tham Luang cave
8 system and became trapped for over two weeks. Thousands of people from around
9 the world had rushed to the scene to assist with the rescue operation. Among them
10 was Mr. Musk, who the Thai government later lauded for the impassioned donation
11 of his and his employees' substantial effort, ingenuity, and financial resources.

12 3. Mr. Unsworth was not a member of the dive team who risked their lives
13 to rescue the students. He participated by sharing his knowledge of the caves. After
14 the rescue succeeded, he wanted the acclaim and media spotlight to be pointed at
15 him. For reasons known only to Mr. Unsworth, Mr. Musk's involvement irritated
16 him and his sense of self-importance.

17 4. None of the events giving rise to this lawsuit would have happened but
18 for what Mr. Unsworth then did. During a July 13, 2018 interview on CNN, Mr.
19 Unsworth condemned the efforts of Mr. Musk and his engineers as a mere "PR
20 stunt." Before Mr. Musk had said anything about Unsworth—or even knew who he
21 was—Mr. Unsworth capped off his attacks *on Mr. Musk* with the terse suggestion
22 that Mr. Musk take the miniature rescue submarine that he and his engineers had
23 invented and built for the rescue and "stick it where it hurts."

24 5. When Mr. Musk responded to the substance of Mr. Unsworth's false
25 attacks, he referred to Mr. Unsworth as a "pedo guy." Within a matter of days,
26 however, Mr. Musk retracted his remarks and deleted his Twitter posts. But Mr.
27 Unsworth wasn't done. In the weeks that followed, his attorney tweeted Mr. Musk
28 and three reporters, tauntingly telling Mr. Musk to check his mail for a legal threat.

1 Provoked by these new tweets, reporters hounded Mr. Musk for additional
2 information. Mr. Musk then wrote off-the-record e-mails to a Buzz Feed reporter in
3 which Mr. Musk said that the reporter should do his own investigation. Instead, the
4 reporter published the e-mails without Mr. Musk's knowledge or approval. This
5 lawsuit followed.

6 6. One has to question Mr. Unsworth's motive in turning this into a federal
7 case. The libel laws exist to protect those whose reputations have been harmed by
8 false assertions of fact. In the case of Mr. Unsworth, who made himself a public
9 figure, those assertions have to be made with constitutional malice. Mr. Musk has
10 already retracted what he said publicly. Mr. Unsworth's claim is thus confined to
11 what Mr. Musk said in private conversation. Regardless, Mr. Unsworth and his
12 reputation are no worse off. After Mr. Musk's remarks, Mr. Unsworth continued to
13 receive the adulation he craved from his involvement in the rescue. He continues to
14 give speeches about his work before enthusiastic audiences. And in December 2018,
15 the government of Her Majesty Queen Elizabeth II announced that she would be
16 making Mr. Unsworth a member of the Order of the British Empire. No, this lawsuit
17 is not about restoring anything Mr. Unsworth claims to have lost. The formerly
18 unknown Mr. Unsworth remains the utterly undamaged Mr. Unsworth. In reality,
19 this case represents Mr. Unsworth's devious desire to milk the media coverage over
20 what he instigated to reap a financial windfall from Mr. Musk, despite the absence of
21 any injury. Mr. Musk will fight that.

22 7. As detailed below, Mr. Musk denies the allegations of defamation and
23 specifically answers each paragraph of the Complaint.

24 **INTRODUCTION**

25 8. Defendant admits that the Court has diversity jurisdiction. Defendant
26 denies all other allegations in Paragraph 1.

27 9. Defendant lacks sufficient knowledge to admit or deny the allegations of
28 Paragraph 2 and denies them on that basis.

10. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 3 and denies them on that basis.

11. Defendant denies the allegations in Paragraph 4.

12. Defendant denies that the Exhibit A referenced in Paragraph 5 contains an accurate or complete timeline of the events relevant to this action.

13. Defendant denies the allegations in Paragraph 6.

THE PARTIES

Vernon Unsworth

14. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 7 and denies them on that basis.

15. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 8 and denies them on that basis.

16. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 9 and denies them on that basis.

17. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 10 and denies them on that basis.

18. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 11 and denies them on that basis.

19. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 12 and denies them on that basis.

20. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 13 and denies them on that basis.

21. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 14 and denies them on that basis.

Elon Musk

22. Defendant admits the allegations of Paragraph 15.

23. Defendant admits the allegations of Paragraph 16.

24. Defendant admits the allegations of Paragraph 17.

25. Defendant admits the allegations of Paragraph 18.

26. Defendant admits the allegations of Paragraph 19, although Defendant cannot vouch for the accuracy of the cited list.

27. Defendant admits the allegations of Paragraph 20, although Defendant cannot vouch for the accuracy of the cited list.

28. Defendant admits the allegations of Paragraph 21.

29. Defendant admits the allegations of Paragraph 22.

INTRODUCTION

The Thailand Cave Rescue

30. Defendant admits the allegations of Paragraph 23, based on Defendant's understanding of the relevant events.

31. Defendant admits the allegations of Paragraph 24, based on Defendant's understanding of the relevant events.

32. Defendant admits the allegations of Paragraph 25, based on Defendant's understanding of the relevant events.

33. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 26 and denies them on that basis.

34. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 27 and denies them on that basis.

35. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 28 and denies them on that basis.

36. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 29 and denies them on that basis.

37. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 30 and denies them on that basis.

38. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 31 and denies them on that basis.

1 39. Defendant lacks sufficient knowledge to admit or deny the allegations of
2 Paragraph 32 and denies them on that basis.

3 40. Defendant lacks sufficient knowledge to admit or deny the allegations of
4 Paragraph 33 and denies them on that basis.

5 41. Defendant lacks sufficient knowledge to admit or deny the allegations of
6 Paragraph 34 and denies them on that basis.

7 42. Defendant lacks sufficient knowledge to admit or deny the allegations of
8 Paragraph 35 and denies them on that basis.

9 43. Defendant lacks sufficient knowledge to admit or deny the allegations of
10 Paragraph 36 and denies them on that basis.

11 44. Defendant lacks sufficient knowledge to admit or deny the allegations of
12 Paragraph 37 and denies them on that basis.

13 45. Defendant lacks sufficient knowledge to admit or deny the allegations of
14 Paragraph 38 and denies them on that basis.

15 46. Defendant lacks sufficient knowledge to admit or deny the allegations of
16 Paragraph 39 and denies them on that basis.

17 47. Defendant lacks sufficient knowledge to admit or deny the allegations of
18 Paragraph 40 and denies them on that basis.

19 48. Defendant lacks sufficient knowledge to admit or deny the allegations of
20 Paragraph 41 and denies them on that basis.

21 49. Defendant admits the allegations of Paragraph 42, based on Defendant's
22 understanding of the relevant events.

23 50. Defendant admits the allegations of Paragraph 43, based on Defendant's
24 understanding of the relevant events.

25 51. Defendant admits, based on his understanding of the relevant events,
26 that the Boys were found on July 2, 2018. Defendant lacks sufficient knowledge to
27 admit or deny the remaining allegations of Paragraph 44 and denies them on that
28 basis.

1 52. Defendant admits, based on his understanding of the relevant events,
2 that the Boys were found in the Cave System nine days after they went missing.
3 Defendant lacks sufficient knowledge to admit or deny the remaining allegations of
4 Paragraph 45 and denies them on that basis.

5 53. Defendant lacks sufficient knowledge to admit or deny the allegations of
6 Paragraph 46 and denies them on that basis.

7 54. Defendant lacks sufficient knowledge to admit or deny the allegations of
8 Paragraph 47 and denies them on that basis.

9 55. Defendant lacks sufficient knowledge to admit or deny the allegations of
10 Paragraph 48 and denies them on that basis.

11 56. Defendant lacks sufficient knowledge to admit or deny the allegations of
12 Paragraph 49 and denies them on that basis.

13 57. Defendant admits, based on his understanding of the relevant events,
14 that Mr. Gunan tragically lost his life on or about July 6, 2018 during the rescue
15 effort. Defendant lacks sufficient knowledge to admit or deny the remaining
16 allegations of Paragraph 50 and denies them on that basis.

17 58. Defendant lacks sufficient knowledge to admit or deny the allegations of
18 Paragraph 51 and denies them on that basis.

19 59. Defendant lacks sufficient knowledge to admit or deny the allegations of
20 Paragraph 52 and denies them on that basis.

21 60. Defendant lacks sufficient knowledge to admit or deny the allegations of
22 Paragraph 53 and denies them on that basis.

23 61. Defendant admits the allegations of Paragraph 54.

24 62. Defendant admits, based on his understanding of the relevant events,
25 that the rescue operation began on July 8, 2018 and that the Boys were successfully
26 rescued from the Cave System in the following days, which was the result of the
27 work of many dedicated volunteers. Defendant lacks sufficient knowledge to admit
28 or deny the remaining allegations of Paragraph 55 and denies them on that basis.

1 63. Defendant lacks sufficient knowledge to admit or deny the allegations of
2 Paragraph 56 and denies them on that basis.

3 64. Defendant lacks sufficient knowledge to admit or deny the allegations of
4 Paragraph 57 and denies them on that basis.

5 65. Defendant lacks sufficient knowledge to admit or deny the allegations of
6 Paragraph 58 and denies them on that basis.

7 66. Defendant lacks sufficient knowledge to admit or deny the allegations of
8 Paragraph 59 and denies them on that basis.

9 67. Defendant lacks sufficient knowledge to admit or deny the allegations of
10 Paragraph 60 and denies them on that basis.

11 68. Defendant lacks sufficient knowledge to admit or deny the allegations of
12 Paragraph 61 and denies them on that basis.

13 69. Defendant admits the allegations of Paragraph 62, that he offered to
14 build (and did have built) a min-submarine to aid in the rescue effort, although it is
15 inaccurate to describe it as having “several protruding parts.”

16 70. Defendant denies that the allegations in Paragraph 63 provide sufficient
17 context and background and thus together fail to accurately describe the event.
18 Defendant therefore denies them on that basis.

19 71. Defendant admits the allegations of Paragraph 64.

20 72. Defendant denies that the allegations in Paragraph 65 provide sufficient
21 context and background and thus together fail to accurately describe the event.
22 Defendant therefore denies them on that basis.

23 73. Defendant admits the allegations of Paragraph 66, although Defendant
24 cannot vouch for the accuracy of the reports.

25 74. Defendant admits the allegations of Paragraph 67, based on Defendant’s
26 understanding of the relevant events.

27 75. Defendant lacks sufficient knowledge to admit or deny the allegations of
28 Paragraph 68 and denies them on that basis.

1 76. Defendant admits the allegations of Paragraph 69, although Defendant
2 cannot vouch for the accuracy of the reports.

3 **Mr. Unsworth's CNN Interview**

4 77. Defendant admits that Mr. Unsworth appeared on CNN on July 13,
5 2018. Defendant lacks sufficient knowledge to admit or deny the remaining
6 allegations of Paragraph 70 and denies them on that basis.

7 78. Defendant admits that Plaintiff made the statements quoted in Paragraph
8 71. Defendant denies that this is a complete collection of Plaintiff's statements.
9 Defendant specifically denies all allegations in footnote 4.

10 **Musk's Accusations**

11 79. Defendant denies the allegations in Paragraph 72.

12 80. Defendant admits that he tweeted the quoted text in Paragraph 73.

13 81. Defendant lacks sufficient knowledge to admit or deny the allegations of
14 Paragraph 74 and denies them on that basis.

15 82. Defendant admits that he tweeted the quoted text in Paragraph 75.

16 83. Defendant admits that he tweeted the quoted text in Paragraph 76.

17 84. Defendant lacks sufficient knowledge to admit or deny the allegations of
18 Paragraph 77 and denies them on that basis.

19 85. Defendant denies that Paragraph 78 includes a complete definition of
20 the term pedophile.

21 86. Defendant admits that he tweeted the quoted text in Paragraph 79.
22 Defendant denies all other allegations in Paragraph 79.

23 87. Defendant admits that he tweeted the quoted text in Paragraph 80.
24 Defendant denies all other allegations in Paragraph 80.

25 88. Defendant denies the allegations in Paragraph 81.

26 89. Defendant lacks sufficient knowledge to admit or deny the allegations of
27 Paragraph 82 and denies them on that basis.
28

1 90. Defendant admits that he tweeted the quoted text in Paragraph 83.
2 Defendant denies all other allegations in Paragraph 83.

3 91. Defendant denies the allegations in Paragraph 84.

4 92. Defendant denies the allegations in Paragraph 85.

5 93. Defendant admits that on or about August 28, 2018, BuzzFeed News
6 and other publications published articles regarding Defendant's tweets. Defendant
7 denies all other allegations in Paragraph 86.

8 94. Defendant admits that on or about August 29, 2018, an individual
9 purporting to be Mr. Unsworth's attorneys responded via Twitter with the quoted text
10 in Paragraph 83. Defendant denies all other allegations in Paragraph 87.

11 95. Defendant admits that he sent an email to a reporter with the quoted text
12 in Paragraph 88, specifically stating it was "off the record." Defendant denies all
13 other allegations in Paragraph 88.

14 96. Defendant admits that he sent an email to a reporter with the quoted text
15 in Paragraph 88, specifically stating it was "off the record." Defendant denies all
16 other allegations in Paragraph 89.

17 97. Defendant admits that he sent an email to a reporter with the quoted text
18 in Paragraph 88, specifically stating it was "off the record." Defendant denies all
19 other allegations in Paragraph 90.

20 98. Defendant denies the allegations in Paragraph 91.

21 99. Defendant admits that he sent an email to a reporter with the quoted text
22 in Paragraph 92, specifically stating it was "on background." Defendant denies all
23 other allegations in Paragraph 92.

24 100. Defendant admits that he sent an email to a reporter with the quoted text
25 in Paragraph 92, specifically stating it was "on background." Defendant denies all
26 other allegations in Paragraph 93.

27
28

101. Defendant admits that he sent an email to a reporter with the quoted text in Paragraph 92, specifically stating it was “on background.” Defendant denies all other allegations in Paragraph 94.

102. Defendant denies the allegations in Paragraph 95.

103. Defendant denies the allegations in Paragraph 96.

104. Defendant admits that he sent an email to a reporter with the quoted text in Paragraph 97, specifically stating it was “off the record.” Defendant denies all other allegations in Paragraph 97.

JURISDICTION AND VENUE

105. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 98 and denies them on that basis.

106. Defendant admits the allegations of Paragraph 99.

107. Defendant denies the allegations in Paragraph 100.

108. Defendant denies the allegations in Paragraph 101 that damages, if any, exceed \$75,000.00, exclusive of interest and costs.

109. Defendant admits the allegations of Paragraph 102.

110. Defendant denies the allegations in Paragraph 103.

111. Defendant admits that he published the tweets-at-issue from California. Defendant denies all other allegations in Paragraph 104.

112. Defendant admits that he published the tweets-at-issue from California. Defendant denies all other allegations in Paragraph 105.

113. Defendant lacks sufficient knowledge to admit or deny the allegations of Paragraph 106 and denies them on that basis.

114. Defendant denies the allegations in Paragraph 107.

115. Defendant denies that Mr. Unsworth has suffered any damages. Defendant lacks sufficient knowledge to admit or deny the remaining allegations of Paragraph 108 and denies them on that basis.

1 116. Defendant lacks sufficient knowledge to admit or deny the allegations of
2 Paragraph 109 and denies them on that basis.

3 117. Defendant admits the allegations of Paragraph 110.

4 118. Defendant admits the allegations of Paragraph 111.

5 **CAUSE OF ACTION FOR DEFAMATION**

6 119. Defendant reasserts and incorporates by reference its denials to
7 paragraph 1 through 111 of Plaintiff's Complaint as if fully restated herein.

8 120. Defendant denies the allegations in Paragraph 113.

9 121. Defendant admits the allegations of Paragraph 114.

10 122. Defendant lacks sufficient knowledge to admit or deny the allegations of
11 Paragraph 115 and denies them on that basis.

12 123. Defendant denies the allegations in Paragraph 116.

13 124. Defendant lacks sufficient knowledge to admit or deny the allegations of
14 Paragraph 117 and denies them on that basis.

15 125. Defendant lacks sufficient knowledge to admit or deny the allegations of
16 Paragraph 118 and denies them on that basis.

17 126. Defendant lacks sufficient knowledge to admit or deny the allegations of
18 Paragraph 119 and denies them on that basis.

19 127. Defendant lacks sufficient knowledge to admit or deny the allegations of
20 Paragraph 120 and denies them on that basis.

21 128. Defendant lacks sufficient knowledge to admit or deny the allegations of
22 Paragraph 121 and denies them on that basis.

23 129. Defendant lacks sufficient knowledge to admit or deny the allegations of
24 Paragraph 122 and denies them on that basis.

25 130. Defendant lacks sufficient knowledge to admit or deny the allegations of
26 Paragraph 123 and denies them on that basis.

27 131. Defendant lacks sufficient knowledge to admit or deny the allegations of
28 Paragraph 124 and denies them on that basis.

- 1 132. Defendant denies the allegations in Paragraph 125.
- 2 133. Defendant denies the allegations in Paragraph 126.
- 3 134. Defendant denies the allegations in Paragraph 127.
- 4 135. Defendant denies the allegations in Paragraph 128.
- 5 136. Defendant denies the allegations in Paragraph 129.
- 6 137. Defendant denies the allegations in Paragraph 130.
- 7 138. Defendant denies the allegations in Paragraph 131.
- 8 139. Defendant denies the allegations in Paragraph 132.
- 9 140. Defendant denies the allegations in Paragraph 133.
- 10 141. Defendant denies the allegations in Paragraph 134.
- 11 142. Defendant denies the allegations in Paragraph 135.
- 12 143. Defendant denies the allegations in Paragraph 136.
- 13 144. Defendant denies the allegations in Paragraph 137.
- 14 145. Defendant denies the allegations in Paragraph 138.
- 15 146. Defendant denies the allegations in Paragraph 139.
- 16 147. Defendant denies the allegations in Paragraph 140.
- 17 148. Defendant denies the allegations in Paragraph 141.
- 18 149. Defendant denies the allegations in Paragraph 142.
- 19 150. Defendant denies the allegations in Paragraph 143.
- 20 151. Defendant denies that Plaintiff is entitled to any of the listed judgments
- 21 or remedies on pages 20 and 21 of the Complaint.

AFFIRMATIVE DEFENSES

22 Defendant has not knowingly or intentionally waived any applicable defenses.

23 Defendant expressly reserves the right to plead additional affirmative defenses and

24 other defenses should such defenses be revealed by discovery in this case.

25 Defendant asserts the following defenses without assuming the burden of proof as to

26 any issue that would otherwise rest with Plaintiff.

27

28

FIRST AFFIRMATIVE DEFENSE

(NON-ACTIONABLE OPINION)

1. The Complaint fails to state a claim upon which relief can be granted, including because the statements-at-issue are nonactionable opinion.

SECOND AFFIRMATIVE DEFENSE

(FAILURE TO JOIN AN INDISPENSABLE PARTY)

2. Plaintiff has failed to join an indispensable party, BuzzFeed, in their Complaint. In the absence of BuzzFeed, the Court cannot afford complete relief among the parties.

THIRD AFFIRMATIVE DEFENSE

(TRUTH)

3. Plaintiff cannot recover for defamation because the all or parts of the statements-at-issue were true or substantially true.

FOURTH AFFIRMATIVE DEFENSE

(LACK OF ACTUAL MALICE)

4. Plaintiff cannot prove that Defendant made the statements-at-issue with knowledge that they were false or with reckless disregard of whether they were false or not.

FIFTH AFFIRMATIVE DEFENSE

(NO ACTUAL DAMAGES)

5. Plaintiff cannot prove any damages proximately caused by the statements-at-issue, including to his reputation.

SIXTH AFFIRMATIVE DEFENSE

(ADEQUATE REMEDY AT LAW)

6. Plaintiff's claim for equitable relief is barred because Plaintiff has an adequate remedy at law.

SEVENTH AFFIRMATIVE DEFENSE

(FIRST AMENDMENT)

1 7. Defendant's statements-at-issue are protected by the First Amendment
2 of the Constitution of the United States.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 (UNCLEAN HANDS)

5 8. Plaintiff's claims are barred by the doctrine of unclean hands, as
6 Plaintiff initiated and provoked this dispute with Defendant.

7 **NINTH AFFIRMATIVE DEFENSE**

8 (COMMON INTEREST OR OTHER APPLICABLE PRIVILEGE)

9 9. Defendant's statements-at-issue to BuzzFeed are not actionable
10 defamation because they are protected by the common interest or other applicable
11 privilege.

12 **TENTH AFFIRMATIVE DEFENSE**

13 (RETRACTION/APOLOGY)

14 10. Plaintiff's claims are barred in part or in whole because Defendant
15 retracted and/or apologized for certain of the statements-at-issue.

16 **ELEVENTH AFFIRMATIVE DEFENSE**

17 (NO MITIGATION)

18 11. Plaintiff's claims are barred, in whole or in part, because of his failure to
19 mitigate or reasonably attempt to mitigate its alleged damages, if any, as required by
20 law.

21 **ADDITIONAL DEFENSES**

22 Defendant hereby gives notice that he intends to rely upon any other defenses
23 that may become available or apparent during the discovery proceedings in this
24 matter, and hereby reserves the right to amend his Answer and to assert any such
25 defenses. Defendant is entitled to, and claims the benefit of, all defenses and
26 presumptions set forth in or arising from any rule of law or statute of the United
27 States or the State of California or any other applicable law.
28

1 Dated: May 13, 2019

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12 By: _____

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